IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

Bail Appl..No. 6709 of 2007()

CRIME NO.127/04 OF KUMBALA POLICE STATION

PETITIONER : ACCUSED:

ABDUL LATHEEF @ LATHEEF,
S/O.B.A.MOHAMMED, PERIYADKA HOUSE,
POST PERMUDA, KUMBALA, KASARAGOD.

BY ADV. SRI.T.B.SHAJIMON

RESPONDENTS: COMPLAINANT:

STATE OF KERALA REPRESENTED BY
INSPECTOR OF POLICE KUMBLA POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6709 OF 2007

Dated this the 5th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner is the 2nd accused. He along with the co-accused (A1) was allegedly found to keep in their possession 2000 packets of arrack each containing 100 ml. on 26/3/2004. The 1st accused is apprehended; whereas the petitioner allegedly ran away and the police could not arrest him. Thereafter, the petitioner has not been arrested so far. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The learned counsel for the petitioner prays that anticipatory bail may, in these circumstances, be granted to the petitioner.

3. This application is opposed by the learned Public

Prosecutor. The contemporaneous seizure mahazar as well as the occurrence report prepared do reveal the complicity of the petitioner. The petitioner may be directed to surrender before the Investigating Officer or the learned Magistrate and then seek regular bail in the ordinary course, submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I am unable to perceive any features in this case which would justify the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C. I agree with the learned Public Prosecutor that this is a fit case where the petitioner must surrender before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail,

after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge